Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	WC Docket No. 11-42
Lifeline and Link Up Reform and Modernization	)	CC Docket No. 96-45
	)	
Federal- State Joint Board on Universal Service	)	WC Docket No. 03-109
	)	
Lifeline and Link Up	)	

REPLY COMMENTS OF NALA/PCA TO THE NOTICE OF PROPOSED RULEMAKING ON LIFELINE AND LINK UP REFORM AND MODERNIZATION

The National ALEC Association/Prepaid Communications Association (hereafter "NALA/PCA") filed initial comments in the above-captioned proceeding and through its undersigned attorney submits these reply comments on behalf of its more than twenty member companies with respect to only one issue – the proposed elimination of reimbursement for Toll Limitation Service.

Eliminating Reimbursement for Toll Limitation Service

As stated in its initial comments, NALA/PCA opposes the elimination of reimbursement for toll limitation service ("TLS").[1] In response to comments filed on the TLS reimbursement issue, NALA/PCA points out that only wireline ETCs seek and obtain reimbursement for Toll Limitation Service. There seems to be some confusion as to whether wireless carriers seek this reimbursement.[2] NALA/PCA does not know of any carrier that seeks reimbursement for TLS provided to wireless customers. To eliminate any concern about potential abuse by wireless

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[1] NALA/PCA Comments at 5.
[2] *See* Indiana Commission Comments at 4.

ETCs claiming TLS reimbursements, NALA/PCA would support a rule to restrict TLS payments to wireline ETC services only.

NALA/PCA members include a vibrant group of wireline competitive ETCs providing low-income consumers with a competitive choice and high-value bundled service packages. As Reunion Communications stated in its initial comments, elimination of TLS reimbursement threatens to eliminate the pre-paid wireline competitive ETC business model and the various service options provided to low-income consumers by these carriers.[3] Many commenters state their belief in the advantages and benefits of competition.[4] Those who favor competition should support retention of TLS reimbursement.

Because most competitive ETCs cannot self-provision TLS, they must purchase TLS from a vendor such as an incumbent LEC. The rates that competitive ETCs pay to incumbent LECs for TLS typically exceed the incumbent LECs' incremental cost of providing that wholesale service by a wide margin. Notably, the TLS rates charged by incumbent LECs and other vendors become the competitive ETCs' incremental costs. Thus, TLS reimbursement levels the wireline ETC playing field so that competition can exist in the wireline Lifeline marketplace, by in effect covering the disparity between the incumbent LEC-billed charges to wireline competitive ETCs for TLS and the amounts for which the incumbent LECs seek reimbursement when providing TLS to their own Lifeline retail end users. Without TLS reimbursement, wireline competitive ETCs are left with virtually no viable options for continuing to provide service to low-income consumers. Wireline competitive ETCs could impose a credit check on the end user, who is typically already showing the strains of the

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3 Reunion Communications Comments at 15-16.

4 *See, e.g.,* NASUCA Comments at 28.

economic condition which caused them to qualify for Lifeline in the first place, but this typically will result in the consumer not qualifying for credit.[5] Alternatively, competitive ETCs could require a deposit for toll charges, but these deposits typically are unmanageable for low-income consumers with limited cash-on-hand. Accordingly, replacing TLS with deposit requirements is almost certainly going to drive away low-income consumers.[6] The same result would follow any attempt by wireline competitive ETCs to pass along the initial and monthly incumbent LEC TLS charges to the end user, as these charges would increase prices anywhere from 25-100% (depending on the state and the relevant incumbent LEC's TLS charges) and thus most likely would take the service outside the affordability range for many low-income consumers.

NASUCA based its support for the Commission's proposal to eliminate TLS reimbursement on the "assumption" that TLS reimbursement is for the benefit of the carriers, not the consumer.[7] This assumption is plainly false. TLS reimbursement, by statute, is to reimburse the ETC for their incremental costs of providing TLS to the low-income consumer. The Commission has found this service to be essential to keeping low-income consumers connected to the network.[8] Neither the Commission nor any commenter has submitted evidence to show that this is no longer true. Indeed, NASUCA argues that no-deposit Lifeline services are "absolutely essential for the continued availability of Lifeline for millions of existing low income

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5 The fact that wireline competitive ETC customers respond to ads stating that there will be "no credit check" provides ample indication that these low-income consumers are credit-challenged.

6 *See* NASUCA Comments at 11 (recognizing that deposit requirements will reduce low-income subscribership levels). NASUCA fails to appreciate that deposit requirements are only eliminated when TLS reimbursement is in place.

7 NASUCA Comments at 12.

8 *In re Federal-State Joint Board on Universal Service,* 12 FCC Rcd 8776, ¶¶ 385-86 (1997).

customers."[9] However, NASUCA fails to comprehend the fact that TLS reimbursement is the reason why so many low-income consumers receive service today without a deposit requirement.[10]

Moreover, TLS reimbursement includes no profit for ETCs, as reimbursement is on an incremental cost basis. Yet, TLS reimbursement allows wireline competitive ETCs to offer low-income consumers attractive bundles that include a full month of unlimited local and in-bound calling often with a predetermined amount of toll calling (typically 100 minutes) by virtue of built-in TLS (toll limitation). Clearly, the low-income consumers who subscribe to these services benefit from them. Our member companies have found that many low-income customers prefer the non-mobile option and the more robust connectivity offered when compared to mobile plans allowing as few a two minutes per day of any type of calling (in-bound and out-bound).[11] As explained above, without TLS reimbursement, the wireline competitive ETC pre-paid bundled service model becomes unsustainable, and low-income consumers will be left to choose from wireline service plans with deposits and high long distance prices (low-income consumers simply do not qualify for or cannot afford any distance or reduced-rate long distance plans with monthly service fees) or wireless plans with limited connectivity and expensive bulk purchase requirements for extending connectivity mid-month (e.g., $20 for 100 minutes). Surely, these would be consequences of adopting the Commission's proposal to eliminate TLS reimbursement. Although these consequences may be "unintended" -- because reducing

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9 NASUCA Comments at 11.

10 The Consumer Groups also appear to miss this connection, as they failed to oppose the elimination of TLS reimbursement but underscore the importance that service be provided to low-income without deposit requirements. It appears that the Consumer Groups fail to recognize that the high take rate for TLS is due to the fact that it is offered free of charge and that such a "free" offering is made possible by TLS reimbursement. *See* Consumer Groups Comments at 13.

11 *See* Reunion Communications Comments at 9-10.

connectivity options and taking steps that will most surely reduce subscribership by low-income consumers which is antithetical to the purpose of the low-income fund -- they are nevertheless reasonably foreseeable.

NALA/PCA wholeheartedly agrees with the Commission that waste, fraud, and abuse in all aspects of the federal universal service fund must be combatted. As a reasonable alternative to the proposed elimination of TLS reimbursement, we respectfully suggest that the Commission impose a reasonable cap on TLS reimbursement rates as a means of controlling waste, fraud and abuse. A cap would eliminate outliers while preserving competitive choices and thereby maximizing connectivity options for low-income consumers. Specifically, NALA/PCA supports the cap levels proposed by Reunion Communications, as representing a reasonable middle ground.[12] If individual carriers have higher costs, they should be permitted to demonstrate those costs to the Commission upon request. With the knowledge that the Commission could request proof of above-cap costs, it would be highly unlikely that any carrier would fabricate costs or engage in other ways of gaming the system.

Respectfully submitted,

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12 Reunion Communications Comments at 16-17.